

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PAULINA BOS and	:	CIVIL ACTION
CANDICE PORTER	:	
	:	
v.	:	
	:	
BENYOMIN BLUMENKRANTZ, et al.	:	NO. 07-cv-05169-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

October 9, 2008

By Memorandum and Order dated February 8, 2008, I dismissed this action for lack of subject matter jurisdiction. There was no diversity of citizenship. The dismissal was without prejudice to plaintiffs' right to litigate in an appropriate forum.

In the same Order, plaintiffs' counsel was directed to show cause why she should not be referred to the appropriate disciplinary authority for having filed the action when she was not authorized to practice law in this jurisdiction. Plaintiffs' counsel has appropriately responded to the show-cause order, and no further action will be taken against her.

On September 4, 2008, the defendant Pillar to Post filed a motion for sanctions. The motion seeks an order against plaintiffs' counsel requiring her to pay \$3,075, as reimbursement for counsel fees allegedly expended by the defendant Pillar to Post in the litigation in this Court.

Defendant's motion for sanctions invokes Fed. R. Civ. P. 11, and asserts that, as to the defendant Pillar to Post, this action was frivolous from its inception. Movant asserts that, on December 18, 2007, defense counsel sent a letter to plaintiffs' counsel pointing out the lack of merit in the plaintiffs' claims, and requesting that plaintiffs withdraw their complaint. It must be remembered, however, that the actual merits of plaintiffs' claims against the moving defendant have not been decided by any court. My Order of February 6, 2008, dismissing this action without prejudice was predicated upon the lack of diversity of citizenship (aggravated by the suspect status of plaintiffs' counsel). At no point has moving defendant raised those issues. All that has been shown is that the moving defendant may have a valid basis for claiming that plaintiffs' entire action is frivolous, but, in the absence of subject-matter jurisdiction, I decline to pursue the matter. The motion for sanctions will be denied, without prejudice to reassertion should the plaintiffs persist in litigating their claims against the movant in some other court.

An Order follows.

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CIVIL ACTION

NO. 07-cv-05169-JF

ORDER

AND NOW, this 9th day of October 2008, upon
consideration of the motion of defendant Pillar to Post for
sanctions against plaintiffs' counsel, IT IS ORDERED:

The motion for sanctions is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.